

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA                          )  
    )  
    )  
v.    )      Criminal No. 22-58  
    )  
    )  
JAMES GILMORE,                                    )      Judge Cathy Bissoon  
    )  
    )  
Defendant.    )

**ORDER**

For essentially the same reasons stated in the government’s opposition (Doc. 55), Defendant’s Motion to Dismiss (Doc. 52) based on *Bruen* and *Range* will be denied. As this Court repeatedly has observed, the ruling in *Range* was a narrow one. Range v. Att’t Gen., 69 F.4th 96, 106 (3d Cir. 2023). In this case, Defendant’s “as applied” challenge fails for multiple reasons.

First, because Defendant was an active state probationer. *See U.S. v. William Lacell Dark, Jr.*, Criminal No. 21-413 at Doc. 88 (W.D. Pa. Oct. 24, 2023) (Bissoon, D.J., presiding) (citing U.S. v. Terry, 2023 WL 6049551 (W.D. Pa. Sept. 14, 2023) (Ranjan, D.J., presiding)).

Second, because Defendant’s criminal history includes a conviction for drug trafficking – while at the same time unlawfully possessing a firearm. *See Beaver Cnty. Ct. of Comm. Pls.*, Dkt. No. CP-04-CR-1693-2014. The drug trafficking conviction, alone, is fatal to Defendant’s as-applied challenge. *See U.S. v. Williams*, 2023 WL 6810569, \*7 (W.D. Pa. Oct. 16, 2023) (Hardy, D.J., presiding). That he also unlawfully possessed a firearm in conjunction with the drug charge only “digs the hole” deeper. *See U.S. v. Torrell Jones*, Criminal No. 20-21 at Doc. 165 (W.D. Pa. Oct. 6, 2023) (Bissoon, D.J., presiding) (“the law has long recognized that drugs and guns are a dangerous combination”) (citations and internal quotations omitted).

Defendant's as-applied challenge fails on multiple grounds, each of which independently warrants a denial of his Motion. His facial challenge likewise fails, for the reasons stated in Torrell Jones. *See id.* (citing U.S. v. Hilliard, 2023 WL 6200066, at \*1 (W.D. Pa. Sept. 21, 2023) (Ranjan, D.J., presiding); U.S. v. O'Connor, 2023 WL 5542087, \*3 (W.D. Pa. Aug. 29, 2023) (Conti, D.J., presiding)).

For these reasons, and for the others stated in the government's opposition, Defendant's Motion to Dismiss (**Doc. 52**) is **DENIED**.

IT IS SO ORDERED.

November 28, 2023

s\Cathy Bissoon

Cathy Bissoon  
United States District Judge

cc (via ECF email notification):

All Counsel of Record